

ORDINANCE NO. XXX

An ordinance amending the (insert municipal name) Municipal Code to Establish Regulations Regarding the Use of Turf Fertilizer in the (insert municipal name)

WHEREAS, the (insert municipal name), an Illinois municipal corporation (“Village”) finds that certain compounds containing phosphorus, which are contained in manufactured fertilizer, enter into Village and neighboring water resources, including wetlands and watercourses, resulting in excessive and accelerated growth of algae and aquatic plants, which is detrimental to these resources; and

WHEREAS, a significant source of phosphorus content in surface water runoff is fertilizer used in residential and commercial applications; and

WHEREAS, studies have revealed that healthy lawns can be maintained without applying fertilizer containing phosphorus; and

WHEREAS, the Village finds that a reduction in the use of manufactured fertilizers containing phosphorus will assist the Village in reducing the amount of phosphorus that enters the Village and neighboring water resources and improve water quality and protect Village and neighboring water resources.

NOW, THEREFORE, BE IT ORDAINED by the (Mayor/President) and Board of Trustees of the (insert municipal name), McHenry County, Illinois, as follows:

SECTION 1: Section (enter correct section number), Penalty, of the (enter name) Municipal Code shall be re-numbered as Section (enter number) and Section (enter number) shall read as follows:

(Section Number XX) FERTILIZER CONTAINING PHOSPHORUS

A. The following words and phrases are defined as follows for the purpose of this section:

Commercial applicator: A person who is engaged in the business of applying fertilizer for hire.

Fertilizer: A substance containing nitrogen, phosphorus, potash, or any other recognized plant nutrient element or compound which is used primarily for its plant nutrient content. Fertilizer shall not include the following natural products: agricultural limestone, marl, sea solids and unprocessed animal manure, which have not been manipulated to alter or change them chemically, burnt or hydrated lime and biosolids produced by a wastewater treatment facility or sanitary district; and shall not be subject to the provisions of this Section. Fertilizer shall not include any “pesticide” as defined in the Illinois Pesticide Act. To the extent that any substance

or mixture may combine both fertilizer and pesticides, only that part of the mixture that is used primarily for its plant nutrient content shall be considered fertilizer under this Section.

Non-commercial applicator: A person who applies fertilizer but who is not a commercial applicator.

Plant nutrient phosphorus: Any compound, mixture or substance containing phosphorus that may be used to stimulate or aid plant growth or health, including, but not limited to compounds, mixtures or substances

- With a nonzero P205 fertilizer grade, percentage or ratio;
- Containing any type of ammonium phosphate, calcium phosphate or superphosphate
- Containing any phosphoric acid;
- Packed or labeled as containing any of the above or as containing any compound, molecule, mixture of substance containing phosphorus or the chemical symbol "P".

B. Prohibition: No commercial or non-commercial applicator, including homeowners and renters, shall apply to any turf area within the Village any fertilizer, liquid or granular, which contains any amount of phosphorus or other compound containing phosphorus, such as phosphate, except:

1. The naturally occurring phosphorus in unaltered natural or organic fertilizing products such as yard waste compost; or
2. As otherwise provided in Section XX.D of this Chapter.

C. Impervious Surfaces, Drainage Ways and Buffer Zones: In the event of a storm event, fertilizer is likely to be washed off the land directly into a waterway if applied to certain areas. This lost fertilizer will not serve its intended purpose and will excessively fertilize and accelerate growth of algae and aquatic plants in waterways and wetlands. Therefore, no commercial or non-commercial applicator shall intentionally apply any fertilizer to:

1. Impervious surfaces;
2. Areas within drainage ditches;
3. Waterways or within 10 feet thereof;
4. Any delineated wetland and any area established as a natural buffer zone therefore; and
5. Frozen ground.

A person who accidentally applies fertilizer to these areas shall immediately remove it.

D. Exceptions: The following are exemptions to the prohibitions described in Section XX.B:

1. The prohibition against the use of fertilizer containing phosphorus shall not apply to turf and lawn areas for which soil tests performed no more than one year prior to the application confirm the ambient phosphorus content is below median phosphorus levels for typical area soils. The scope of this exemption shall only be for such volume or concentration of phosphorus necessary to permit such turf or lawn area to contain phosphorus levels equal to the median phosphorus levels for typical area soils. Phosphorus applied as fertilizer pursuant to this exemption shall be integrated into the soil where it is immobilized and generally protected from loss by stormwater runoff. Evidence supporting this exception shall be submitted with an application to the Public Works Department (or applicable department). If an application is approved, the Public Works Department shall issue a permit, limited to the current growing season.
 2. The prohibition contained in Section XX.B shall not apply to any farming or agricultural business, provided the use of fertilizers is related to the growth of a product or maintenance of growing fields. Appropriate steps shall be taken to integrate the fertilizer into the soil where it is immobilized and generally protected from loss by stormwater runoff. This exemption shall not apply to the standard lawn area of said farm or agricultural business.
 3. Newly established turf via seed or sod procedures and only during the first growing season. Evidence supporting this exception shall be submitted with an application to the Public Works Department (or applicable department). If an application is approved, the Public Works Department shall issue a permit, limited to the first growing season.
- E. Signs: Any person, firm, corporation or partnership which sells any fertilizer at retail within the Village shall be required to post a sign at the point of sale for fertilizer containing a photograph showing the correct number of nutrients on a bag of fertilizer with the middle number zero, such as in 20-0-3, and the following legend:

PHOSPHORUS FERTILIZER PROHIBITED IN (INSERT MUNICIPAL NAME)

**THE (INSERT MUNICIPAL NAME) PROHIBITS
THE APPLICATION OF FERTILIZER CONTAINING
PHOSPHORUS TO ANY LAWN OR TURF AREA
AND
THE APPLICATION OF ANY FERTILIZER TO
AN IMPERVIOUS SURFACE, DRAINAGE
WAY, WETLAND OR BUFFER ZONE**

Such sign shall have an area not less than 93.5 square inches and shall be conspicuously posted no less than four feet above ground.

- F. Enforcement: The provisions of this Section shall be enforced by the Chief of Police, the Zoning Administrator, Building Commissioner, and Village officers charged with

enforcement of Village ordinances. Any person, corporation, firm, franchise or other entity found to violate of this Section shall be liable for penalties not more than \$50 for a first violation and equal to not less than \$250 and not more than \$750 for a second or subsequent violation.

- G. Interpretation: This Section shall not be interpreted as regulating the application of pesticides or as regulating any other activity regulated by the Illinois Pesticide Act.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect on (enter date). Publication in pamphlet form is hereby authorized, as provided by law.

Ayes:

Nays:

Absent:

Abstain:

APPROVED:

(SEAL)

ATTEST: _____

Passed: _____

Approved: _____

Published: _____